IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6354 of 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UMAR MAMAD SUMRA & 8 - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR JAGDISH MEHTA for MR YOGESH S LAKHANI for Petitioner(s) : 1 - 9.
MR LR PUJARI, AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 21/02/2007

ORAL JUDGMENT

1. Shri Jagdish Mehta, learned counsel for the petitioners under the authority of Shri Y.S. Lakhani, Shri L.R. Pujari, learned AGP for the

respondent-State.

2. Present is a petition wherein, the petitioners are seeking certain benefits from the State Government on the ground that they would be entitled to return fare from the State Government in case they were required to carry water from the source to the thirsty villages. This petition came to be filed in the year 1989. Fortunately, it came up for hearing on 23.3.2000, the petition was allowed on the same day and a direction was issued to the respondents to consider the claim of the petitioners in view of the statement of fact made by the petitioners that the return fair was paid to the petitioners no. 1 and 3. After the disposal of the matter, it appears that a final order came to be passed on 6.7.2000. The petitioners thereafter filed Misc. Civil Application No. 1427 of 2005 for restoration of the main matter. The petition, thereafter came to be restored. The State Government, being alive to the situation that the matter had already been restored and that they were required to file their counter

affidavit, did not do anything for a long period. However, on 13.7.06, learned AGP prayed for time to file reply to the amended petition, the Court adjourned the matter to 8.8.06. Almost six months have passed, the State has not come out of its slumber and is enjoying its hibernation. They are not ready and willing to file reply to the amended petition. I am tempted to quote part of the observations made in the earlier order dated 23.3.2000.

" This Special Civil Application is filed in the year 1989 but respondents have not cared to file reply to the same for all these years. Request made today for grant of time to file reply deserves no acceptance and accordingly, it is not accepted."

3. If these were the observations of the Court in 2002, I do not know how should this Court react in 2007. It is most unfortunate that the government and its officers are not interested in working. It appears that they have lost work

culture and are only interested in attending this meeting or that meeting, have solace in their chambers and run after one or the other big man. They must not forget that they are public servants. They are not public bosses, they should always remember that if the Court requires them to file their reply, then they are obliged to file their reply. Many times, when they are required to appear in person, it causes heart-burning, but what the hell the Court can do. Requests made by the Court are turned down by such administrative officers thinking that they are entitled to turn down the request less realizing that request is made by the High Court to save honour of such person and such request tantamounts to an order by the High Court. Even after 17 years of filing of the petition and after two years of restoration of the petition, the State is not ready and willing to say anything. On earlier occasion, the Court had relied upon a statement made in para-15 of the petition wherein it was stated that the petitioners no. 1 and 3 were paid up to 31st May,

1986 for carrying water and the return fair. If that was the statement in the original petition, the same still stands and stands uncontroverted. If on that statement, writ could be granted, then in view of the unchallenged statement, this petition again can be allowed.

4. The order dated 6.7.2000 passed by the learned Collector shows absolute non-application of mind. It appears that some Babu had drafted that order and the Collector, without application of mind or even without understanding and appreciating that what the High Court wanted him to do, had simply affixed his signatures. On one side, reference to the High Court's order is made, but the concerned Collector did not care to consider the case of the petitioners in comparison to the case of the petitioners no. 1 and 3 who had made specific allegation that they were paid for return trips. The High Court required the authorities to pass a speaking order, but unfortunately the officers who were too loud, are absolutely inarticulate in passing legal orders, specially when they are required to

pass orders under the directions of the High Court. Reason could be that they do not understand the orders of the High Court or they do not wish to implement it. Should this Court say that the officers of the government do not read the orders of the High Court and if they read the same, they do not understand and in case they understand, they propose not to implement the same. Should this Court remind them that non-observance of the orders passed by the High Court may lead them to serious trouble. By their inaction or non-action, they may perilously border the contempt of lawful authority of this Court.

5. Learned counsel for the State said that petitioners no. 1 and 3 were not paid, but the order dated 6.7.2000 does nowhere record this fact. It appears that the learned govt. counsel was relying upon some communication between the Collector and the Deputy Secretary, which the State never bothered to bring on the record. The High Court had required the Collector to pass a speaking order and the speaking order simply

says; “After considering the totality of the circumstances and conditions of the order, the Collector does not find any reason to make any change.” If this is the speaking order, then the a dumb could sing a song. I am sorry to record that such officers who are protected souls in the government bring bad name to the government and the government has to look low in the court of law.

6. The order dated 6.7.2000 is quashed. The matter is remanded to the Collector, Junagadh or Porbandar [whoever has jurisdiction to decide the matter], for deciding the matter afresh in accordance with law by a speaking order. I must clarify that the words “speaking order” would not mean writing few words here or there, but would mean application of mind, consideration of the facts, consideration of the arguments, reasons and logics and final finding. If this time, the authority commits any wrong and the matter is brought to the notice of this Court, then the officer passing the order would be exposing him to a serious risk. The Collector concerned shall

dispose of the matter within three months from the date of appearance of the petitioners or their representative. The petitioners or their representative shall appear before the Collector concerned on 14th March, 2007 along with a copy of this order.

7. The petition is allowed. Rule is made absolute. The State shall pay Rs. 5,000/- [Rupees Five Thousand] as costs to the petitioners. Copy of this order be sent to the Chief Secretary.

[R.S. GARG, J.]

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